

# Supplementing Industrial Disability Leave

## Overview

Industrial Disability Leave (IDL) is a salary continuation program specifically designed as an alternative benefit program to Workers' Compensation Temporary Disability (TD). The Berryhill Total Compensation Act of 1975 established the IDL program. The legal authority for this program is found in Government Code Sections 19869 - 19877.1.

To qualify for IDL benefits, you must be eligible for workers' compensation benefits and also be an active member of the California Public Employees' Retirement System (CalPERS) or California State Teachers' Retirement System (CalSTRS).

If eligible, you will receive IDL in lieu of TD benefits. TD benefits will not begin until (1) the IDL eligibility period has been exhausted, (2) you are no longer an active member of CalPERS/CalSTRS, or (3) you are a Permanent Intermittent employee who has been furloughed.

Prior to the start of IDL, full-time employees must serve a 24-hour waiting period (three calendar days). If you work less than full-time, the waiting period is prorated. The waiting period may begin the day following the date of injury and need not be consecutive days. Partial days of absence for doctor appointments or authorized periods of disability may be accumulated to equal full days and charged to the 24-hour waiting period.

The waiting period is waived if you are (1) hospitalized at any time as a result of the injury or illness, (2) unable to work for more than 14 calendar days, or (3) the injury is the result of a criminal act of violence. However, the aggregate hours over the 14-day period must, at a minimum, exceed the 24 hours needed to meet the three-day waiting period for a full-time employee and

prorated for a fractional time-base employee.

IDL payments are based on your current wages. For the first 22 working days of disability you will receive full net salary. Thereafter, the payments are based on two-thirds of your gross pay for the remaining days of disability up to 365 calendar days within a two-year period. After the first 22 days of disability, you may be eligible to supplement your basic IDL benefit up to your full net salary with any accrued leave credits. This benefit is called IDL with Supplementation (IDL/S).

## Who is eligible for IDL/S?

All excluded employees and rank-and-file employees in all Bargaining Units (except Bargaining Unit 5) who meet the eligibility requirements for IDL are eligible for IDL/S.

## How does IDL/S work?

If eligible, you may supplement IDL with sick leave, compensating time off, vacation, annual leave, personal leave, or holiday credit each month. Fractions of an hour may not be used. Credits used for supplementation will **not** be restored. IDL may be supplemented up to your full net salary or you may choose to supplement with less time. Once you select the level of supplementation, it can't be increased. The supplementation amount may be decreased or terminated at any point, but changes will be made on a prospective basis only. The effective date of any change will be the first day of the pay period following the pay period in which the change was submitted.

Leave credits needed for supplementation will be drawn in the following order, unless you specify a different order: (1) Sick Leave, (2) CTO, (3) Vacation or Annual Leave, (4)

Other Leave Credits (e.g., Personal Leave, Holiday Pay).

**How many hours of leave credits are needed for IDL/S?**

The amount of leave credits you'll need to supplement IDL will depend on many variables including your monthly salary, tax status on the date of injury, mandatory withholding, the number of days on IDL, the number of days in the pay period, and other pay you receive in the pay period. Your Personnel Office will determine the maximum level of supplementation allowed under IDL/S. If you do not wish to use the maximum level of supplementation, you may choose a lesser amount. Once you select an amount, it can't be increased.

You can't use fractions of an hour to supplement IDL.

**What if my leave credits fall below the selected supplementation amount?**

If your leave credits fall below your selected supplementation amount, the supplementation amount will be reduced to the amount of leave credits that are available each month (except that no fractions of an hour may be used).

**If the leave credits available at the time of my injury run out, may the credits I earn each month be used for supplementation?**

Yes, you may use any leave credits that you earn while on IDL/S.

**What if I am only on IDL for part of the month?**

If you receive IDL/S and regular pay during the same pay period, Personnel will change the level of supplementation to insure that your combined pay approximates but does not exceed your full net pay.

**What does "Full Net Pay" mean?**

For the purpose of calculating your supplementation level for IDL/S, full net pay means gross pay minus mandatory deductions, which are federal and state taxes, Social Security/Medicare, and retirement. Full net pay can only be approximate, not equaled, since fractions of an hour can't be used for supplementation and there are several variables that impact salary calculations.

**Is IDL/S income treated the same as regular IDL income?**

IDL income is not taxable. However, supplementation income is taxable and will be reported on your W-2 form at the end of the year. Federal and state taxes along with Social Security/Medicare will be withheld from supplementation pay. Tax deductions will be based on current flat tax rates. Retirement is not deducted from supplementation pay because the full retirement amount is deducted from the two-thirds IDL benefit. In addition, all mandatory and voluntary deductions will be withheld from supplementation pay if not already deducted from another payment in the pay period. These deductions will continue provided the supplementation pay is sufficient to cover the deductions. You must cancel the deductions you do not wish to have withheld from supplementation pay.

**How long does IDL/S last?**

If you decide to supplement the two-thirds IDL payment beginning on your 23<sup>rd</sup> day of disability, the supplementation will continue until the IDL benefit expires or you voluntarily stop supplementing IDL.

### **What happens when IDL/S eligibility expires?**

When the IDL benefit expires, you will no longer be able to participate in IDL/S. If eligible, you will be placed on Temporary Disability (TD). TD benefits are limited by statute and are generally less comprehensive than IDL. You can supplement TD. If you opt not to supplement TD, refer to PML 2000-035 for instructions on how to continue your health, dental, and vision benefits.

### **What are the major advantages and disadvantages of IDL/S?**

The major advantages to IDL/S include (1) the ability to obtain a higher level of compensation while on disability leave than would otherwise be possible on IDL alone, and (2) the ability to maintain certain miscellaneous deductions like deferred compensation or other deductions that can't be deducted from IDL pay.

The major disadvantage to IDL/S is that it may reduce your leave balance to a level that will be insufficient to meet future needs when you return to work. The supplementation amount is taxed at the current flat tax rate, which is set by the federal government. This rate could be higher than your normal tax rate. Additionally, if you are converted to TD when the IDL benefit expires, you may have insufficient leave credits to supplement up to your full net pay.

### **What is the IDL/S enrollment process?**

If and when your injury or illness is determined to be work related and workers' compensation benefits are approved, you will be given 15 calendar days in which to choose either IDL or IDL/S. Your Personnel Office will send you an *Industrial Disability Leave with Supplementation Benefits Information and Option Selection* form (STD. 618S). The form includes the calculations showing the amount of leave

credits necessary to provide full supplementation for IDL/S and a "ballot" for you to choose one option or the other.

### **What happens if I fail to make a timely choice?**

If you don't choose between IDL and IDL/S within the 15-calendar-day limit, you will automatically be placed on IDL without supplementation. Failure to make a selection in a timely manner constitutes forfeiture of your right to select the IDL/S benefit at any time in the future.

### **Are there any circumstances when I could be denied IDL/S?**

Yes, you can be denied IDL/S for several reasons, including: (1) failure to make a timely selection of the IDL/S benefit, (2) your basic IDL benefit already matches or exceeds your full net pay, or (3) you refuse to participate in vocational rehabilitation\*, which results in termination of your IDL benefit.

### **If I am denied IDL/S, or am dissatisfied with the supplementation limitations, can I file a grievance?**

You can file a grievance by following the procedures outlined in the Government Code and the California Administrative Code, Title 2 that relate to IDL benefits.

\*vocational rehabilitation benefits apply to dates of injury before 1/1/04 only